

Message Text

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ACTION STR-07

INFO OCT-01 ISO-00 AF-10 ARA-10 EA-10 EUR-12 NEA-10
OIC-02 IO-13 STRE-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
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FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 6295
INFO AMEMBASSY BRUSSELS
AMEMBASSY PARIS

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USMTN USEEC OECD

STR FOR ACTION

STR PASS CODEL

OECD PASS BARREDA

E.O. 11652: N/A
TAGS: MTN, ETRD, EEC
SUBJECT: MTN: US/EC DISCUSSION ON SUBSIDY COUNTERVAILING
- DUTIES

1. SUMMARY: U.S. AND EC MET MORNING OF 20 FEBRUARY
AND HAD USEFUL EXCHANGE OF IDEAS ON SUBSIDIES/COUNTER-
VAILING DUTIES, FOCUSING PRIMARILY ON DOMESTIC
SUBSIDIES AND APPROPRIATE COUNTERMEASURES. EC EXHIBITED
MORE FLEXIBILITY ON ISSUE THAN IN PREVIOUS SESSIONS
AND GROUND WORK WAS LAID FOR MORE DETAILED DISCUSSIONS
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WITH RESPECT TO SPECIFIC RULES ON SUBSIDIES AND ON
COUNTERMEASURES FOR MEETING ON 24 FEBRUARY IN BRUSSELS.
END SUMMARY.

2. U.S. AND EC REPS HELD FIRST MEETING ON SUBSIDIES/
COUNTERVAILING DUTIES SINCE THE CIRCULATION OF THE
US/EC OUTLINE OF AN APPROACH ON SUBSIDY/CVD BY THE

GATT SECRETARIAT TO REVIEW THE SITUATION AND LAY GROUNDWORK FOR FUTURE WORK PROGRAM. U.S. DELEGATION INCLUDED AMBASSADORS MCDONALD AND WOLFF, RIVERS, GREENWALD, (STR); BARRACLOUGH (STATE); SAYLOR (AGRICULTURE); HUFBAUER (TREASURY); AND MEMBERS OF THE MTN DEL. EC SIDE WAS REPRESENTED BY DENMAN, LOEFF, PIZZUTI, KLEIN, PHAN VAN PHI, SUTTON, LUYTEN, DUGIMONT, AND ABBOTT. MCDONALD OPENED SESSION BY SUGGESTING THAT THE IDEAL OBJECTIVE FOR IMMEDIATE FUTURE SHOULD BE TO DEVELOP THE OUTLINE OF A POSSIBLE AGREEMENT IN THIS AREA FOR THE APRIL 10 MEETING BETWEEN STRAUSS AND HAFERKAMP. MCDONALD STRESSED THAT UNLESS SOME UNDERSTANDING WERE REACHED, SUBSIDY/CVD COULD PLAGUE US/EC TRADE RELATIONS FOR THE NEXT DECADE AND THAT TIME WAS SHORT TO REACH SUCCESSFUL CONCLUSION OF THIS ISSUE IN MTN TIMEFRAME.

3. DOMESTIC SUBSIDIES: AFTER BOTH SIDES REITERATED THEIR BASIC OBJECTIVES OF THE SUBSIDY/CVD NEGOTIATIONS, MCDONALD UNDERSCORED THE U.S. POLITICAL REALITY THAT WITHOUT INCREASED DISCIPLINE ON SUBSIDIES THERE IS NO WAY THE U.S. COULD CHANGE ITS CVD LAW TO INCORPORATE AN INJURY TEST. HE QUERIED DENMAN ON THE PROSPECTS FOR INCREASED DISCIPLINE ON SUBSIDIES, PARTICULARLY DOMESTIC SUBSIDIES. IN RESPONSE TO AN EC QUESTION, WOLFF MENTIONED REGIONAL AIDS AS A SUBSIDY PRACTICE LIMITED OFFICIAL USE

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WHERE EXCESSES COULD BE ASCERTAINED, POINTING TO EXISTING INTERNAL GUIDELINES AS A POSSIBLE INDICATION THAT AGREEMENT COULD BE REACHED ON SUCH PRACTICES. WOLFF STRESSED THAT THE U.S. IS NOT LOOKING FOR ELIMINATION OF DOMESTIC SUBSIDIES BUT GUIDELINES ON THEIR USE. DENMAN SUMMARIZED HIS VIEW OF U.S. AND EC POSITIONS AS FOLLOWS: EC CONSIDERS AN INJURY TEST AS THE MOST EFFICIENT AND PRAGMATIC WAY TO ASCERTAIN ANY TRADE IMPACT OF A SUBSIDY, WHILE THE U.S. IS TRYING TO SET LIMITS ON THE USE OF SUBSIDIES. UNDER THE LATTER APPROACH, DENMAN SPECULATED THAT THE PROVISIONS EITHER WOULD BE TOO LOOSE, SO AS NOT TO HAVE ANY CONSEQUENCE OR MEANING, OR TOO PRECISE, THEREBY RESTRICTING THE SOVEREIGN RIGHTS OF GOVERNMENTS. IN CONTRAST TO PREVIOUS EC POSITION OF NOT WISHING TO DISCUSS DOMESTIC SUBSIDIES, DENMAN EXPRESSED WILLINGNESS TO EXAMINE ANY U.S. SUGGESTED LANGUAGE THAT WOULD ATTEMPT TO AVOID THESE PITFALLS. MCDONALD RESPONDED BY OUTLINING U.S. IDEAS FOR SUBSIDY RULES ON REGIONAL AIDS (I.E., NOT TO BE USED BEYOND THE AMOUNT NECESSARY TO COMPENSATE FOR THE ECONOMIC DISADVANTAGES OF A REGION) AND GOVERNMENT PARTICIPATION IN INDUSTRY (I.E., CAPITAL PARTICIPATION

OR OTHER AIDS TO ENTERPRISES WHICH AFFECT A PARTICULAR
COMMODITY SHOULD BE CONSISTENT WITH COMMERCIAL CONSIDER-
ATIONS, INCLUDING PRICES). WITH RESPECT TO THE FIRST
EXAMPLE, DENMAN RAISED THE PRACTICAL DIFFICULTY IN
ASCERTAINING THE AMOUNT OF ECONOMIC AID NEEDED FOR SUCH
COMPENSATION. IN PURSUING THE DISCUSSION FURTHER,
KLEIN INQUIRED AS TO THE CONSEQUENCES OF EXCEEDING
SUCH GUIDELINES. MCDONALD SAID THAT THE U.S. WAS OPEN
TO IDEAS, INCLUDING SOME TYPE OF TRANSPARENT MECHANISM
TO SETTLE DISPUTES WHICH WOULD BUILD UP PRECEDENTS ON
THE BASIS OF CASE LAW OVER TIME. WOLFF ADDED THAT
SUCH A MECHANISM WOULD BE PARTICULARLY IMPORTANT TO
DEAL WITH THIRD COUNTRY MARKET AND IMPORT SUBSTITUTION
SUBSIDY PROBLEMS. UNDER CURRENT GATT PROCEDURES
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THE VALUE OF CONSULTATION WAS LIMITED SINCE THERE ARE
NO GATT RULES ON SUCH SUBSIDIES. WOLFF POINTED OUT THAT
IN THE CASE WHERE SUBSIDIZED ITEMS ARE IMPORTED DIRECTLY
INTO A COUNTRY, THAT COUNTRY WOULD HAVE ITS CHOICE EITHER

TO RESORT TO COUNTERVAILING DUTIES UNDER GATT ARTICLE VI OR TO UTILIZE OTHER GATT MECHANISMS. KLEIN SUGGESTED THAT THE INTERNATIONAL MECHANISM (I.E., BILATERAL AND MULTILATERAL CONSULTATIONS) SHOULD BE USED IN ALL CASES, WITH DENMAN ADDING THAT SUCH PROCEDURES WOULD BE SUBJECT TO STRICT TIME LIMITS. WOLFF NOTED THAT U.S. DISCUSSION ALONG THESE LINES WAS ONLY WITH RESPECT TO DOMESTIC SUBSIDIES.

4. EXPORT SUBSIDIES: IN REVIEWING THE CANADIAN REDRAFT OF THE U.S. PAPER ON SUBSIDIES, KLEIN STATED THAT WITH RESPECT TO EXPORT SUBSIDIES, TWO TRACKS FOR COUNTERACTION WERE POSSIBLE: (1) UNILATERAL CVD WITH AN INJURY TEST OR (2) GATT ARTICLE XXIII ACTION. IN RESPONSE TO U.S. QUESTION, KLEIN SAID THAT IN A NULLIFICATION AND LIMITED OFFICIAL USE

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IMPAIRMENT CASE THE DELIBERATING BODY WOULD HAVE TO LOOK AT THE ADVERSE EFFECTS OF THE SUBSIDY (BUT WAS OPEN AS TO WHETHER THIS HAD TO GO AS FAR AS DETERMINING MATERIAL INJURY). U.S. (RIVERS) ASSERTED THAT THE IDEA OF PRIMA FACIE NULLIFICATION AND IMPAIRMENT WOULD CARRY THE PRESUMPTION OF ADVERSE EFFECTS ALREADY OCCURRING IN TRADE.

5. FUTURE WORK: MCDONALD SUGGESTED THAT BOTH SIDES ATTEMPT TO COMMIT THEIR IDEAS TO PAPER, I.E., THE U.S. IDEAS ON SUBSIDIES AND THE EC IDEAS ON THE TWO-TRACK MECHANISM INCLUDING PROCEDURES FOR CONSULTATION ON DISPUTE SETTLEMENT. DENMAN SAID THAT EC SIDE WOULD CONSIDER THIS POSSIBILITY BEFORE THE MEETING SCHEDULED FOR 24 FEBRUARY IN BRUSSELS.

6. AGRICULTURAL SUBSIDIES: PIZZUTI OPENED THE DISCUSSION BY SAYING THAT THE EC POSITION HAD NOT CHANGED FROM LAST DECEMBER. AT THE STRAUSS/GUNDELACH MEETING THE EC HOPES TO EXPLAIN WHY IT CANNOT MOVE ANY FURTHER ON THIS ISSUE. IN PIZZUTI'S VIEW, THE IDEAS IN GATT ARTICLE XVI:3 ARE ADEQUATE. HE POINTED TO PROBLEMS WITH THE "NATIONAL MARKET" CONCEPT ASSERTING THAT A CHANGE IN THE COMPETITIVE SITUATION IN ONE MARKET SHOULD NOT INHIBIT A COUNTRY FROM MAINTAINING AN "EQUITABLE SHARE" OF THE WORLD MARKET. DENMAN NOTED TWO CONCEPTS WHICH COULD BE EXPLORED IN THIS AREA: AGREEMENT WITHIN COMMODITY ARRANGEMENTS AND USE OF GATT ARTICLE XVI:3 WHERE THE "EQUITABLE SHARE" CONCEPT, WHICH IS NOT DEFINED, COULD BE TACKLED ON A CASE-BY-CASE BASIS. SAYLOR EXPLAINED THE BASIC U.S. POSITION OF NEED TO CONTROL COMPETITIVE USE OF SUBSIDIZATION. FOR INSTANCE, A SHORT TERM MEASURE WHICH DISRUPTS MARKET AND IS NOT JUSTIFIED GIVEN THE LONGER TERM TRADE PICTURE

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SHOULD BE CONSIDERED OBJECTIONABLE. WOLFF ALSO CAUTIONED THAT NEUTRAL WORDING OR AN IMPLICIT BLESSING OF AGRICULTURAL SUBSIDIES COULD HAVE AN IMPACT ON THE U.S. USE OF AGRICULTURAL SUBSIDIES IN THE FUTURE. MCDONALD SUGGESTED THAT BOTH SIDES TAKE THE ADVANTAGE SAYLOR'S PRESENCE IN GENEVA FOR THE NEXT MONTH TO CLARIFY OBJECTIVES IN THIS AREA TO GIVE A SENSE OF DIRECTION, WITH THE IDEA OF ATTEMPTING TO PRESENT IDEAS IN ADVANCE OF THE GUNDELACH VISIT TO THE U.S.

7. DRAFTED BY WALLAR. CULBERT

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